**New Zealand Superannuation Fund: How Responsible is it?**

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**Introduction**

How responsible is the New Zealand Superannuation Fund (NZ Super Fund, or the Fund)? To answer that question involves describing the four-step process that it is necessary to go through to set up or select an ethical fund. It involves defining what an ethical company would look like. The Fund is then evaluated according to this process and definition. Because the New Zealand legislation is so weak the Fund has adopted various codes such as the United Nations Principles of Responsible Investment, and the United Nations Global Compact. These are also assessed. The way in which the Fund carries out its exclusion and engagement is described and evaluated, as is the selection of what it sees as strategic risks. Recommendations for improvement are then made.

**Process for the Selection of an Ethical Fund**

There are four steps involved in the selection of an ethical fund. First, define your values. Second, decide what types of investments you do not want to invest in (negative screens). This step can also include deciding the types of funds you wish to invest in (positive screens). Third, choose the means of engagement you wish to use. Fourth, describe the reporting you expect the fund to carry out.

*The first step*, defining your values, is a statement of the moral principles and standards you wish the fund to follow. There is a wide range of funds that claim an ethical label, and many are not adequate. Some are single purpose funds, being concerned about one issue only, such as tobacco or controversial weapons, and are not comprehensive. Others use a very weak form of sustainability and are inadequate in protecting the environment. (For a fuller account of how moral concepts link with codes, and then with principles, and the ways of evaluating these principles, see Howell 2015.)

*The second step*, deciding what to exclude, again has many options. Some funds exclude a wide range of investment types. An example is Paul Hawkin’s Highwater Global Fund (Highwater Global Fund). An example of a fund that excludes very little is the Christian Brothers Investment Service or CBIS (Christian Brothers Investment Service). That is because the CBIS prefers to engage as much as possible. There is no one right choice in deciding whether to exclude a little ot a lot: the choice is tactical. Even funds that exclude a lot still need to engage.

*The third step* is deciding on a means of engagement with companies. The best practice for engagement is the Interfaith Center for Corporate Responsibility (ICCR), founded in 1971 in the USA by Catholic, Protestant and Jewish investors. There are currently 77 members with 33 associates and 81 affiliates: the associates and affiliates are not necessarily religious or USA based, but have linked with ICCR because of its comprehensive shareholder activism. The members sponsor shareholder resolutions, engage in discussions with corporate management and participate in other forms of outreach. There are about 350-400 shareholder resolutions filed each year, and often around 300 corporate dialogues. An example of successful engagement was the action taken by ICCR and Domini against Nucor that used pig iron produced in Brazil with slave labour. The New Zealand Super Fund was one of the initial signatories to begin a campaign to persuade Nucor to change (Kanzer). Because there was no organisation in Australia and New Zealand that could provide the type of engagement that the ICCR does, the Australasian Centre for Corporate Responsibility was established in Canberra in 2012 (Australasian Centre for Corporate Responsibility).

*The fourth step* is to report on the results of choices and actions. An example of best practice for reporting engagement is the CBIS. Another is Triodos Bank (Triodos Company Engagement Report 2014). An independent audit should also be provided.

**Definition of an Ethical Company**

To care for both people and the planet, an ethical company will care for the ecological systems that support life here on our planet (human-Earth obligations), and promote a just distribution of our Earth’s benefits (human-human responsibilities). Organisations need to be financially, socially and environmentally sustainable and responsible, treating all stakeholders fairly. Stakeholders include owners, members of the governing body, management, staff, subsidiaries, contractors, suppliers and distributors, customers, clients, and the local community.

From an environmental viewpoint, the organisation will respect and act in accord with nature and within the limits set by the ecological systems on which we are dependent for life. This is a definition of a strong ecological sustainability (as compared to weak sustainability where there is no recognition or acceptance of Earth’s limits).

The social component includes human rights, and use of labour, including health and safety and fair employment practices, as well as the meaningful involvement of labour in decision making.

An ethical organisation maintains good governance. It acts with financial and ethical integrity and transparency. This includes working with financial institutions and agents that espouse these values. It includes providing accurate and accessible financial and performance reports, and truthful advertising and promotion.

No company is completely sustainable or ethical, but investment will be in those companies that are closest to this standard. The application of any ethical criteria will require weighing the various components or qualities that make up an ethical company. Because of the severe ecological degradation to our world by such issues as climate warming, the environmental factor is critical, and strong ecological sustainability should take priority in the consideration of which companies to invest in.

Any agent or advisor when reporting or advising, should take an account of how each company meets these ethical criteria and any engagement taken to encourage change.

**Legislation and Codes for the New Zealand Superannuation Fund**

The NZ Super Fund’s ethical legislative requirement, enacted in 2001, is to avoid prejudice to New Zealand's reputation as a responsible member of the world community. An early legal opinion about how tobacco investment would affect New Zealand’s international reputation, stated that its reputation would not be adversely affected. There were no international agreements and many countries had government owned tobacco operations. It was only after a conference held by the Council for Socially Responsible Investment in 2005 that it became politically embarassing for the Fund to continue holding tobacco stocks because of the longstanding opposition to tobacco of the then Prime Minister and former Health Minister, Helen Clark, for the Fund to continue holding tobacco stocks. It was not international reputation at play but national embarrassment.

The international reputation criteria is an inadequate criterion because it does not adequately identify morally unacceptable companies. To develop more appropriate criteria, the Fund has adopted various policy statements and codes. In 2006 it joined the United Nations Principles of Responsible Investment (UNPRI) and later, the United Nations Global Compact. In its public report on why it divested from tobacco, The Fund stated that its Responsible Investment Policy included “the regulatory environment, including international conventions and New Zealand law”.

There are a number of problems with the UNPRI, the UN Global Compact, and the Investor Group on Climate Change (IGCC). The UNPRI is not a valid measure of an ethically responsible organisation or fund. Validity is where a measure or standard actually measures what it is intended to measure, and there are two steps to establish whether this is the case: content and construct validity. Content validity requires consideration at a conceptual level: does the measure make sense? Construct validity requires empirical considerations: is the application of the measure consistent with other empirical evidence? To be a valid measure both tests need to be passed. I have written about this in more detail elsewhere (Howell 2013) to show that the UNPRI is not a valid measure on both content and construct grounds. If the UNPRI is not a valid measure, the relationship between UNPRI and responsible investment is the same as having a broken leg and living in a house with a garage: there is no causal relationship. Some people living in such a house may have a broken leg, but some may not, and there will be some broken legged people who live in a house with no garage. One of the Co-Chairs of the Expert Group that drafted the UN Principles of Responsible Investment, has stated that the Responsible Investment community has not been more responsible than the investment community generally.

*“(T)he trillions of dollars controlled by RI asset owners, managers and consultants are not deployed consistent with long term investment strategies that would conduct our economies in a direction consistent with sustainable development, environmental protection, and greater economic justice – which would imply radical departures from what the market feels comfortable with and the valuation it puts on the large cap listed shares that dominate most global portfolios”* (Joly).

Simply by adopting the UNPRI does not imply responsible behaviour, and is a very inadequate moral compass.

The UN Global Compact fails for similar reasons. The section on environmental principles is particularly weak. The IGCC bases its approach on the ESG (environment, social, governance) framework in the UNPRI, and the response of NZ Super Fund in the Institutional Investors Group on Climate Change 2012 survey is very general: it does not enable an adequate appreciation of any moral behaviour that we normally expect from companies, or the threats of climate change and how the respondents are dealing with it except in general terms.

To give substance to adequate criteria for an ethical definition, and go beyond the superficial ESG framework, it is necessary to develop criteria that use moral concepts. Trillium Asset Management, for example, have minimum standards with regard to the environment that involve coal or nuclear power, conventional, chemical or biological weapons, companies that have controversial human rights records, particularly involving indigenous peoples. Their Portfolio21 Global Equity Fund has a very robust exclusion policy concerning strong workplace practices, a demonstrated record of producing safe products for consumers, protecting the environment, fair compensation for employees and executives, and respecting and upholding human rights (Trillium Mutual Funds).

In Norway The Council on Ethics makes recommendations to the Norges Bank on the observation and exclusion of companies in the Norwegian Government Pension Fund’s portfolio. It follows guidelines set by the Parliament. These guidelines are done by defining what the types of companies will be excluded from the investment portfolio. Currently the Norwegian Fund is required to avoid investment in companies which themselves or through entities they control that

a)   produce weapons that violate fundamental humanitarian principles through their normal use;

b)   produce tobacco;

c)   sell weapons or military material to states that are subject to investment restrictions on government bonds as described in the management mandate for the Fund section 3-1(2)(c).

Companies may be put under observation or be excluded if there is an unacceptable risk that the company contributes to or is responsible for

a)   serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour and the worst forms of child labour;

b)   serious violations of the rights of individuals in situations of war or conflict;

c)   severe environmental damage;

d)   gross corruption;

e)   other particularly serious violations of fundamental ethical norms (Norwegian Ethical Council).

In addition, The Norwegian Parliament has decided that the Fund should divest from fossil fuels (Milne).

The Council makes its findings available to Norges Bank, but before the Bank makes a decision on observation or exclusion, it has to consider whether other measures, including the exercise of ownership rights, may be more suited to reduce the risk of continued norm violations, or whether such alternative measures may be more appropriate for other reasons.

The way in which Norway deals with these matters is, on the whole, a good model to follow. The setting up of an Ethical Council has the advantage of making transparent the moral nature of investment choices. It is likely that its findings will be more publicly available and has a wider public educational value as a result. Many people with an investment background have very little education in subjects outside a narrow range of knowledge. Internationally many people in the banking and financial sector have reputations for conservative and immoral behaviour. Setting up a Council enables appointment of people from diverse backgrounds, skills and knowledge to be involved. It also provides information for other government agencies that have investments (such as Kiwisaver funds, local government councils and universities) and smaller private funds.

The criteria of the Norwegian Fund are conservative. At one stage they were invested in Canadian Tar Sand exploration even though it should have been excluded because of severe environmental damage. It is not clear if the labour criteria include payment for a living wage. The UN Global Compact is stronger on labour criteria ( ‘the effective abolition of child labour’, as compared to the Norwegian ‘worst forms of child labour’), but both need to have stronger environmental protection clauses. However, both are better in making explicit the moral compass New Zealanders expect than the criterion of international reputation. The criticisms below of the New Zealand Super Fund having a large number of companies that are socially irresponsible but having no engagement from the Fund, apply equally to the Norwegian procedures.

**Divestment and Engagement**

The record of divestment and engagement of the NZ Super Fund is set out in Tables 1 and 2.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Table 1: NZ Super Fund Divestment** | | |  |  |  |  |
| **Issue** |  | **Year** | **No.Cpys** |  | **No. Cpys** |  |
|  |  |  | **Initially Excluded** | | **Currently Excluded** | |
|  |  |  |  |  |  |  |
| Anti-personnel Mines | | 2006 | 4 |  | 5 |  |
| Cluster Munitions | | 2008 | 11 |  | 8 |  |
| Whaling |  | 2006 | 1 |  | 0 |  |
| Tobacco |  | 2007 | 20 |  | 137 |  |
| Nuclear Weapons | | 2008 | 2 |  | 9 |  |
| Israel and Occupied | |  |  |  |  |  |
| Palestinian Territories | | 2012 | 3 + 1 subsidiary | | 5 |  |
| Environmental/Safety/ | |  |  |  |  |  |
| Human Rights | | 2012 | 4 |  | 6 |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

[NB There is duplication among the companies that have been excluded in these categories. Four of the five companies currently excluded for APMs are also involved in the manufacture of cluster munitions. A company may be excluded from the Fund even if it is not in the Fund’s portfolio at the time. In these cases there has been no ‘divestment’ as such, as the company was not held in the portfolio. The exclusion prevents the company from entering the Fund at a later date.]

It defies common sense not to expect many more companies than six to be excluded for environmental, safety and human rights abuses.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Table 2: NZ Super Fund Engagement 2014/5** | | |  |  |
|  |  |  |  |  |
| Human Rights and Safety | |  |  | 6 |
| Severe Environmental Damage | | |  |  |
|  | Palm Oil |  |  | 20 |
|  | Fracking |  |  | 56 |
| Bribery and Corruption | |  |  | 33 |
| NZ Engagement | |  |  | 8 |
|  | Total |  |  | 123 |

The New Zealand Superannuation Fund currently invests in 6152. If the number of companies that the Fund actively engages with is subtracted, that leaves over 6029. The Fund states that it integrates ESG (Environmental, Social and Governance) into all aspects of the Fund’s investment activities, from investment selection and due diligence to ownership activities such as monitoring their external investment managers, exercising their voting rights and engaging with companies to improve their ESG policies and practices. However because the ESG framework is so inadequate, it is unlikely this engagement is effective. The Fund has recognised the strategic risk of climate warming (see below) and expects its advisors and asset managers to take that into account. However, in its 2012 response to the Institutional Investors Group on Climate Change survey, it states that around 10% of the Fund is invested in the energy sector.

The Global Sustainable Investment Alliance has estimated that $21.4 or 30.2% of professionally managed funds worldwide are socially responsible (Global Sustainable Investment Alliance). This is a very wide definition of “socially responsible”. It includes single-purpose exclusion where a minimum of one exclusionary criterion is deployed on a wide range of assets within a firm (typically controversial weapons or tobacco). The term is used in many ways such there is no single European definition for sustainable investing. If the criterion is used based on caring for the ecological systems that support life here on our planet and treating all stakeholders fairly, the 30% figure would likely be reduced to a single figure percentage.

If however we take this 30% pattern and make the not unreasonable assumption that it applies also to the companies that the New Zealand Super Fund has selected for investment, and apply it to the 6029 that the Fund does not actively engage with, that leaves over 4000 companies that Fund the invests in but does engage with over their “socially irresponsible” behaviour.

The Fund’s Annual Report (page 67) states that the Fund engaged with 100% of the equity portfolio on climate change.  This is done as a signatory of the CDP's investor climate change programme. However, this is engagement only in the sense of being one of 822 signatories of the Project that encourages companies to disclose their carbon emissions. A more active role to play is to engage with those companies to significantly reduce their carbon impact.

The Annual Report 2015 (page 69) gives an overall picture of The Fund’s engagement during the year. It is too brief to be able to assess how effective their engagement is. Although the Fund is very transparent in most of its activities, this is an area where improvement is necessary. The Annual Report also states that the appointment of the company, BMO, will expand their engagement in the future, but it remains to be seen whether this will lead to more transparency, effectiveness, or range and depth of this future work. Consideration should also be given to membership of active engagement groups such as the ICCR or the ACCR.

Because of the minimal number of exclusions and the limited number of engagements, the Fund needs to rethink its strategy and exclude more, invest in fewer companies, and engage more.

**Risk and Climate Warming**

In 2008 the Fund joined the Investor Group on Climate Change (IGCC) and began reporting against the Carbon Disclosure Project (CDP) in 2012. For a fund that has an investment horizon of 2080, it is the prudent thing to take climate warming seriously. Nevertheless because of the current New Zealand Government’s lack of concern about the seriousness of the threat, the action of the Fund needs public commendation. It is perhaps ironic because of my criticism above about the international reputation criteria, that the recent 2030 targets by the New Zealand Government for the Paris Conference have been described, by Carbon Tracker (Carbon Tracker (a)) as being inadequate. Hence on the grounds of not doing anything to prejudice New Zealand’s reputation as a responsible member of the world community, there is more than enough justification for the Fund to take action on climate warming.

There is plenty of scientific evidence contained in such reports as the Intergovernmental Panel on Climate Change (Intergovernmental Panel on Climate Change), about the severe threat to human life on earth through greenhouse gas emissions, and that this is significantly in part because of human activity, and in particular, the fossil fuel industry. If the world is to keep below the 20C threshold, (and 20C warming will have numerous harmful effects (Lynas)), we can only use 20% of the known coal, oil and gas reserves that fossil fuel companies already have on their books. The other 80% needs to stay in the ground (Carbon Tracker (b)). Mark Carney, Bank of England Governor and Chair of the Financial Stability Board, describes climate change as the biggest future threat to economies, concludes that the majority of fossil fuel reserves must be deemed unburnable, and voices concerns about the risk that stranded assets might destabilise markets (Elliott).

The Fund has been supportive of a recent study *Investing in a Time of Climate Change* (Mercer). The study describes four climate scenarios and four climate risk factors to estimate the impact on returns for portfolios, asset classes, and industry sectors between 2015 and 2050. Depending on the climate scenario which plays out, the average annual returns from the coal sub-sector could fall by anywhere

between 18% and 74% over the next 35 years, with effects more pronounced

over the coming decade (eroding between 26% and 138% of average annual returns). Conversely, the renewables sub-sector could see average annual returns increase by between 6% and 54% over a 35 year time horizon (or between 4% and 97% over a 10-year period).

The Mercer Study concludes that investing to adapt now is widely argued to present a more attractive economic outcome than relying on the concept of greater wealth in the future to provide solutions. Although many of the worst projected climate impacts could still be avoided by holding warming below 2°C, this would require substantial policy, technology, economic, institutional, and behavioural change. For investors, the key question the Study poses is whether they will actively take a role in encouraging limiting a 2°C outcome in line with the Mercer Transformation Scenario.

Should a responsible investor retain any investments they have in fossil fuels, or divest?  Frynas, an experienced consultant in corporate social responsibility and strategic management with a particular focus on the oil and gas industry, claims that such hope is unrealistic and they should be closed down (Frynas). He reviews the behaviour of the major privately owned oil and gas companies and the drivers that influence them. He shows that Shell and BP have been shown to be amenable to public criticism and protest. Exxon has not been amenable to public concerns in the same way.  Exxon has been intractable about climate change.  They have disputed the scientific findings of environmental groups and chose to combat its critics rather than to engage with them.  They have funded think tanks and lobbyists to oppose attempts to reduce emissions.  They assisted the Global Climate Coalition, a corporate lobby group that spent tens of millions of dollars trying to undermine the international climate negotiations.  The 2001 boycott campaign against Exxon had little impact on the company’s strategy, despite shareholder resolutions and media publicity.

According to Frynas, multinational companies often do not recognise the full extent of their interactions with society and politics, and they do not accept responsibility for issues concerning the society-wide impact of their industry. While companies clearly exercise political influence, they tend to reject the notion that they could play a constructive role in helping to address governance failures.  This conclusion is supported by Leggett where he found that the carbon fuel bosses agreed to the reality of global warming, but claim that governments need to provide the leadership on the matter (Leggett).   A recent call by six oil and gas groups to support a tax on carbon is self-serving: Europe’s oil giants know that climate policy is moving ahead with or without them, and they prefer to have some influence over how that process plays out (Roberts).

It is now time for the New Zealand Superannuation Fund to divest from the fossil fuel industry.

**Other Strategic Risks**

It is commendable that the New Zealand Super Fund has identified climate warming as a strategic threat. But there are other threats that are just as significant if not more so. Lester Brown from Worldwatch Institute writes that

*Water tables are falling and wells are going dry in around 20 countries, including China, India and the USA, who produce half of the world’s grain. A major concern is with fossil aquifers (aquifers that do not recharge) in the USA (Ogallala), China and Saudi Arabia* (Brown).

Roughly 20% of US grain comes from irrigated land. The USA is now dependent on nonrenewable groundwater for 50% of its water. In China, 80% of its grain comes from irrigated land. Overpumping in the North China Plain of its fossil aquifer is a major concern. One third of the corn and half of China’s wheat come from this area. It is estimated that 130 million Chinese are dependent on unsustainable water. In India 60% of its grain is dependent on irrigation. A World Bank study in 2005 stated that grain for 175 million Indians was produced by overpumping water. Water levels in water tables and going down and wells are drying up. In a 2013 article in the Economist, the problems of energy and water were graphically illustrated with China: Wen Jiabao, a former prime minister, said water shortages “threaten the very survival of the Chinese nation”. For Brown the real threat to our future is peak water.

Another threat is the current financial and banking system. This has recently been described by Martin Wolf, associate editor and chief economics commentator at the Financial Times. He is widely considered to be one of the world’s most influential writers on economics, being regarded as “staggeringly well connected” within elite financial elite circles. As a young man he supported Keynesian economics, but gradually became disillusioned and moved to become an influential advocate of globalisation and the free market. This changed after reflecting on the 2008 meltdown. He stated that he was guilty of working with a mental model of the economy that did not allow for the possibility of another great depression. He states that the economic, financial, intellectual and political elites misunderstood the consequences of headlong financial liberalisation. Policy making elites failed to appreciate the risks of systemic breakdown. Intellectual elites failed to anticipate crisis and agree on what to do. Political elites were discredited by their willingness to finance the rescue.

Wolf describes the role of private banking in money creation (97% in UK) and that fractional banking is very destabilising. (Fractional banking is the practice whereby a bank accepts deposits, and holds reserves that are a fraction of the amount of its deposit liabilities. Reserves are held at the bank as currency, or as deposits in the bank's accounts at the central bank.) Wolf recommends at a minimum to tighten regulation and increase the reserve ratio. At the maximum he says that governments should have the responsibility to create money as per Fisher in 1930’s, the IMF 2012 study, Kotlikoff of Boston University, and Dyson in Modernising Money (Howell). He does not agree that the economy would die for lack of credit because about 10% of UK bank finance is invested in sectors other than property. He cannot see the current system continuing because it is too unstable. Broadly he sees two outcomes: less globalised finance or more globalised regulation.

With a planning perspective of 2080, these and other strategic risks need to be dealt with by the NZ Super Fund. The current Risk Management Policy of the Fund needs to be expanded to identify a greater variety of strategic risks.

**Conclusion**

The New Zealand Superannuation Fund is not a responsible investor because it invests in companies that are destroying the ecological systems essential for human life, or companies that do not treat their stakeholders fairly. Examples include Rio Tinto and Exxon Mobil. It invests in too many companies with poor environmental or human rights behaviour, and does not actively engage with those companies to change their behaviour. The Fund needs to exclude more (and in particular fossil fuel investments), invest in fewer numbers of companies, and engage more. There are a number of reasons why the Fund finds itself in this situation. These include a very weak legislative mandate, the adoption of invalid codes of conduct, a narrow definition of risk, and an inconsistent application of what principles and strategies it has adopted to use. While it has publicly reported on many aspects of its activity, there are gaps in its public accountability and auditing over its engagement activities.

The legislation for the Norwegian Government Pension Fund Global that describes human rights, environmental damage and corruption criteria, with the establishment of an Ethical Council that provides the moral assessment of companies for the Norges Bank to implement, is a model (with some amendments) that is worth consideration. Consideration should also be given to supporting active engagement groups such as the ICCR or the ACCR. In the latest Annual Report of the Fund it indicates a more active future engagement programme, but unless it changes its inadequate publication of its engagement efforts, it will not be possible to know whether or not future engagement is really effective. CBIS and Triodos Bank are examples of best practice that the Fund should study.

The next few decades will be very turbulent due to such factors as continuing ecological degradation, price increases in energy, banking and financial system collapses, and food and water shortages. The Mercer study is correct in stating that investment needs to now move to preparing humankind to adapt to a very different future that will require substantial policy, technology, economic, institutional and behavioural change if a 2°C or more climate warming scenario is to be avoided. It is now time for the Fund to take up this role, and to also recognise other major strategic risks such as food, water, and banking and financial system collapse. The Fund’s recognition of the strategic significance of climate warming to its future returns is to be welcomed, as is the signing up to the Carbon Disclosure Project. But it is now time for the Fund to divest its fossil fuel investments and take a more active engagement role.

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